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A BILL

CONCERNING A

RAILROAD FROM BEAUFORT

TO

FAYETTEVILLE, &C.

RALEIGH :

W. W. HOLDEN, PRINTER TO THE STATE.

1854

[Introduced by Mr. HUMPHREY.—Read first time, passed,
and ordered to be printed. December 8, 1854.]

A BILL

TO INCORPORATE A COMPANY TO CON-
STRUCT A RAIL ROAD FROM SOME POINT
ON THE WATERS OF BEAUFORT HARBOR,
(TO BE HEREAFTER DETERMINED,) TO THE
TOWN OF FAYETTEVILLE, THROUGH THE
COUNTIES OF CARTERET, ONSLOW, DUPLIN,
SAMPSON, AND CUMBERLAND.

SEC. 1. *Be it enacted by the General Assembly of*
2 *the State of North Carolina, and it is hereby enacted*
3 *by the authority of the same,* That for the purpose of
4 establishing a communication by railroad from the most
5 eligible point on the waters of Beaufort harbor, in the
6 county of Cartaret, with the town of Fayetteville, the
7 formation of a company with a capital of fifteen hun-
8 dred thousand dollars, is hereby authorised, to be
9 caled the "*Central Railroad Company,*" and when
10 formed in compliance with the conditions hereinafter
11 prescribed, to have a body politic in perpetuity.

SEC. 2. *Be it further enacted,* That the said com-
2 pany be, and the same is hereby authorised to con-
3 struct a railroad, from such point on the waters of
4 Beaufort harbor, (to be determined by said company
5 after the same shall have been formed,) to the town of
6 Fayetteville, through the counties of Onslow, Duplin,
7 Sampson and Cumberland, the route to be deter-
8 mined by the said company.

SEC. 3. *Be it further enacted,* That for the purpose
2 of creating the capital stock of said company, it shall
3 be lawful to open books in the county of Onslow, un-

4 der the direction of J. H. Foy, John A. Averett, Jr.,
 5 Owen Huggins, E. W. Fonville, G. J. Ward, Robert
 6 White and L. W. Humphrey. In the county of Car-
 7 taret, under the direction of M. F. Arrendell, J. F.
 8 Bell, Levi T. Oglesby, Bridge Arrendell, Levi Ogles-
 9 by, H. L. Bell, and William N. Davis. In the
 10 county of Duplin, under the direction of Owen R.
 11 Kenan, David Reid, Isaac B. Kelly, William E. Hill,
 12 William J. Houston, and Stephen Graham. In the
 13 county of Sampson, under the direction of Thomas I.
 14 Faison, Thomas Bunting, William McKoy, Patrick
 15 Murphy, William Faison, J. R. Beaman, and Alfred
 16 Johnson. In the county of Cumberland, under the
 17 direction of George McNeill, Thomas R. Underwood,
 18 D. G. McRae, Randall McDaniel, Jesse G. Shepherd.
 19 Edward L. Winston, and John C. Blacker, and at
 20 such other places, and under the direction of such
 21 other persons as a majority of the commissioners
 22 named for the county of Onslow may deem proper,
 23 for the purpose of receiving subscriptions to an amount
 24 not exceeding fifteen hundred thousand dollars, in
 25 shares of one hundred dollars each.

SEC. 4. *Be it further enacted*, That the Commission-
 2 ers above-named, and all other persons who may here-
 3 after be authorised as aforesaid to open books for sub-
 4 scriptions, shall open the same at any time after the
 5 ratification of this Act, first giving twenty days' no-
 6 tice thereof, of the time and place, in one or more of
 7 the newspapers printed in Fayetteville and Beaufort,
 8 and the said books when opened shall be kept open
 9 for the space of sixty days at least, and as long there-
 10 after as the Commissioners first above-named shall
 11 direct, and the said first-named Commissioners shall
 12 have power to call on and require all persons empow-
 13 ered to receive subscriptions of stock, at any time, and

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14 from time to time, as a majority of them may think
 15 proper, to make returns of the subscriptions of stock
 16 by them respectively received.

SEC. 5. *Be it further enacted*, That whenever the
 2 sum of one hundred thousand dollars shall be subscri-
 3 bed, in manner and form aforesaid, the subscribers,
 4 their executors, administrators or assigns, shall be and
 5 they are hereby declared incorporated into a Compa-
 6 ny, by the name and style of the "Central Railroad
 7 Company," and by that name shall be capable in law
 8 and equity of purchasing, holding, selling, leasing
 9 and conveying estates, real, personal and mixed, and
 10 of acquiring the same by gift or devise, so far as shall
 11 be necessary for the purpose embraced within the
 12 scope, object and intent of their Charter, and no
 13 farther: And shall have perpetual succession, and by
 14 their corporate name may sue and be sued, plead and
 15 be impleaded, in any Court of law and equity in this
 16 State; may have and use a common seal, which they
 17 may alter and renew at pleasure; and shall have and
 18 enjoy all other rights and immunities which other cor-
 19 porate bodies may and of right do exercise; and
 20 make all such by-laws, rules and regulations as are
 21 necessary for the government of the corporation, or
 22 effecting the object for which it was created, not in-
 23 consistent with the constitution and laws of this State.

SEC. 6. *Be it further enacted*, That it shall be the
 2 duty of the Commissioners named in this Act for re-
 3 ceiving subscriptions in Onslow, or a majority of them,
 4 as soon as the sum of one hundred thousand dollars
 5 shall have been subscribed in manner aforesaid, to
 6 give public notice thereof, and at the same time call
 7 a general meeting of the stockholders, giving at least
 8 thirty days' notice of the time and place of meeting;

9 at which meeting a majority of the stockholders, be-
10 ing represented in person or by proxy, shall proceed
11 to elect a President and Treasurer and nine Directors,
12 out of the number of stockholders; and the said Di-
13 rectors shall have power to perform all the duties ne-
14 cessary for the government of the corporation and the
15 transaction of the business. And the persons elected
16 as aforesaid shall serve such period, not exceeding one
17 year, as the stockholders may direct; and at that
18 meeting the stockholders shall fix on the day and
19 place or places where the subsequent election of Pre-
20 sident and Treasurer and Directors shall be held, and
21 such election shall thenceforth be annually made; but
22 if the day of the annual election of officers shall, un-
23 der any circumstances, pass without an election, the
24 corporation shall not thereby be dissolved, but the
25 officers formerly elected shall continue in office until
26 a new election takes place.

SEC. 7. *Be it further enacted*, That the election of
2 officers aforesaid shall be by ballot, each stockholder ha-
3 ving as many votes as he has shares in the stock of
4 the company, and the person having the greatest num-
5 ber of votes polled shall be considered duly elected
6 to the office for which he is nominated; and at all
7 elections and upon all votes taken at any meeting of
8 the stockholders, upon any by-law or any of the offi-
9 cers of the company, each share of stock shall be en-
10 titled to one vote, to be represented either in person
11 or by proxy; and proxies may be verified in such
12 manner as the by-laws of the company prescribe.

SEC. 8. *Be it further enacted*, That the Board of
2 Directors may fill any vacancies which may occur in
3 it during the period for which they have been elected,
4 and in the absence of the President may appoint a
5 President *pro tempore* to fill his place.

SEC. 9. *Be it further enacted*, That the Board of
 2 Directors may call for the sums subscribed as stock in
 3 said company in such instalments as the interest of
 4 said company may, in their opinion, require: the call
 5 for each payment shall be published in one or more
 6 newspapers of the State, for one month before the day
 7 of payment, and on failure of any stockholder to pay
 8 each instalment as thus required, the Directors may
 9 sell at public auction, on a previous notice of ten days,
 10 for cash, all the stock subscribed for in said company
 11 by such stockholders, and convey the same to the pur-
 12 chaser at said sale; and if the said sale of stock do
 13 not produce a sum sufficient to pay off the incidental
 14 expenses of the sale and the entire amount owing by
 15 such stockholder to the company for such subscrip-
 16 tions of stock, then and in that case the whole of such
 17 balance shall be held as due at once to the company,
 18 and may be recovered of such stockholder, or his ex-
 19 ecutors, administrators or assigns, at the suit of said
 20 company, either by summary motion in any Court of
 21 superior jurisdiction in the county where the delin-
 22 quent resides, on previous notice of ten days to said
 23 subscribers, or by the action of assumpsit in any Court
 24 of competent jurisdiction, or by warrant before a
 25 justice of peace, where the sum does not exceed one
 26 hundred dollars; and in all cases of assignment of
 27 stock before the whole amount has been paid to the
 28 company, then for all sums due on such stock, both
 29 the original subscribers and the first and all subse-
 30 quent assignees shall be liable to the company, and
 31 the same may be recovered as above-described.

SEC. 10. *Be it further enacted*, That the debt of the
 2 Stockholders due to the company for stock therein,
 3 either as original proprietors or as first or subsequent
 4 assignee, shall be considered as of equal dignity with

judgments in the distribution of assets of a deceased stockholder by his legal representative.

SEC. 11. *Be it further enacted*, That the said company shall issue certificates of stock to its members, and said stock may be transferred in such manner and form as may be directed by the by-laws of the company.

SEC. 12. *Be it further enacted*, That the said company may at any time increase its capital stock to a sum sufficient to complete said road, not exceeding the additional sum of five hundred thousand dollars, by opening books for the subscription of new stock, or borrowing money on the credit of the company, and on the mortgage of its charter and works; and the manner in which the same shall be done in either case shall be prescribed by the stockholders.

SEC. 13. *Be it further enacted*, That the said company shall have power of using any section of the said road constructed by them before the whole of said road shall be completed, and may charge for transportation thereon.

SEC. 14. *Be it further enacted*, That all contracts or agreements authenticated by the President and Secretary of the Board, shall be binding on the company, with or without a seal. Such a mode of authentication shall be used as the company, by their by-laws, may adopt.

SEC. 15. *Be it further enacted*, That the said company may purchase, have and hold in fee or for a term of years any lands, tenements, or hereditaments which may be necessary for the said road, or for the erection

5 of depositories, store-houses, houses for the officers,
 6 servants or agents of the company, or for work-shops
 7 or foundries to be used by the company, or for pro-
 8 curing stone or other materials necessary to the con-
 9 struction of the road, or effecting transportation.

SEC. 16. *Be it further enacted*, That the company
 2 shall have the right, when necessary, to construct the
 3 said railroad across any public road, or along the side
 4 of any public road: *Provided*, that the said company
 5 shall not obstruct any public road without first con-
 6 structing one equally as good and as convenient as
 7 the one taken by said Company.

SEC. 17. *Be it further enacted*, That when any
 2 lands or right of way may be required by the said
 3 company for the purpose of constructing their road,
 4 building warehouses, water stations, workshops or de-
 5 positories, and for want of agreement as to the value
 6 thereof, or from any other cause, the same cannot be
 7 purchased from the owner or owners, the same may
 8 be taken at a valuation to be made by a jury of good
 9 and lawful men, to be summoned by the Sheriff of
 10 the county in which the land required by the com-
 11 pany may lie, and in making the said valuation, the
 12 said jury shall take into consideration the loss or dam-
 13 age which may accrue to the owner or owners in con-
 14 sequence of the land or right of way being surren-
 15 dered, and the benefit and advantage he, she, or they
 16 may receive from the crection of the said road, &c.,
 17 and shall state particularly the value and amount of
 18 each, and the excess of loss or damage over and above
 19 the advantages and benefits shall form the measure of
 20 valuation of said land or right of way: *Provided*,
 22 *nevertheless*, That if any person or persons over whose
 23 land the said road may pass, or the company, should

24 be dissatisfied with the valuation thus made, then,
 25 and in that case, either party may have an appeal to
 26 the court of the county, to be held thereafter; and
 27 the sheriff shall return to the said court the verdict of
 28 the jury, with all their proceedings thereon, and the
 29 lands or rights of way so valued by the jury shall vest
 30 in the said company so long as the same shall be used
 31 for the purpose of said railroad, so soon as the valua-
 32 tion may be paid, or if refused, paid over to the Clerk
 33 of the County Court: *Provided*, That the right of
 34 condemnation shall not authorise the said company to
 35 invade the dwelling-house yard, garden or grave-yard
 36 of any individual without his consent.

SEC. 18. *Be it further enacted*, That the right of
 2 said company to condemn land in the manner de-
 3 scribed in the above section, shall extend to the con-
 4 demnation only of one hundred feet on each side of
 5 the main track of the road, measuring from the cen-
 6 tre of the same, unless in case of deep cuts and filling,
 7 when said company shall have power to condemn as
 8 much in addition thereto as may be necessary for the
 9 purpose of constructing said road; and the company
 10 in like manner shall have power to condemn any ap-
 11 propriate lands for the constructing and building of
 12 depots, shops, &c., not exceeding ten acres in one lot
 13 or station.

SEC. 19. *Be it further enacted*, That the said com-
 2 pany shall have the exclusive right of conveyance or
 3 transportation of persons, goods, merchandise, pro-
 4 duce and minerals over said road, at such charges as
 5 may be fixed on by a majority of the Directors.

SEC. 20. *Be it further enacted*, That the profits of
 2 the company, or so much thereof as the Board of Di-

3 rectors may deem advisable, shall, when the affairs of
 4 the company will permit, be annually or semi-annually
 5 divided among the stockholders, in proportion to the
 6 stock each may own.

SEC. 21. *Be it further enacted*, That notice of pro-
 2 cess upon the President or any of the Directors
 3 thereof, shall be deemed and taken to be due and law-
 4 ful notice of service of process upon the company.

SEC. 22. *Be it further enacted*, That said Com-
 2 pany shall have power to construct branches to said
 3 road, or to connect with any other railroad that may
 4 be constructed, and any contract that may be entered
 5 into with any other railroad company by the Presi-
 6 dent and Directors of said Company, after the con-
 7 sent of a majority of the stockholders first obtained,
 8 shall be binding on the said Company.

SEC. 23. *Be it further enacted*, That it may and
 2 shall be lawful for the said "Central Railroad Com-
 3 pany" to make and issue bonds to an amount not
 4 exceeding four hundred thousand dollars, to be signed
 5 by the President of said Company, under the com-
 6 mon seal of the same, in sums of one thousand dollars
 7 each, bearing interest at the rate of seven per cent.
 8 per annum, to be paid semi-annually, in the city of
 9 New York or Boston, at their option, and redcema-
 10 ble in the year 1880.

SEC. 24. *Be it further enacted*, That to secure the
 2 faithful payment of the said bonds, it may and shall
 3 be lawful for the President and Directors of the
 4 "Central Railroad Company" to make, execute and
 5 deliver to such persons either in the city of New
 6 York or Boston, as the said Company may select and

7 appoint, a deed of trust or mortgage, under the com-
 8 mon seal of said Company, wherein shall be conveyed
 9 to the person thus appointed Trustee, the road,
 10 property, income and franchises of said Company,
 11 acquired or to be acquired, conditioned for the pay-
 12 ment of the interest and final redemption of said
 13 bonds.

SEC. 25. *Be it further enacted*, That all the officers
 2 of the Company, and servants and persons in the
 3 actual employment of the Company, be, and they are
 4 hereby exempt from performing ordinary militia du-
 5 ty, working on public roads and serving as jurors.

SEC. 26. *Be it further enacted*, That all the work
 2 hereby required shall be executed with due dili-
 3 gence; and if it be not commenced within four years
 4 after the ratification of this act, then this charter shall
 5 be void.

SEC. 27. *Be it further enacted*, That it shall and may
 2 be lawful for any incorporated town, or any county
 3 through which said railroad may pass, to subscribe for
 4 such amount of stock in said company as they or
 5 either of them shall be authorised to do by the inhab-
 6 itants of said town, or the citizens of such county in
 7 manner and form as hereinafter provided.

SEC. 28. *Be it further enacted*, That the corporate
 2 authorities of such town, or the justice of the peace
 3 of such county, (a majority of the justices of the said
 4 county concurring,) are authorised to make an order,
 5 requiring the constable of such town and the sheriff
 6 of such county, at such time and on such notice as
 7 they shall direct, to open a poll and take the sense of
 8 the voters of such town qualified to vote for town offi-

9 cers, and of the voters of such county qualified to vote
 10 for members of the House of Commons of the Gen-
 11 eral Assembly, whether the officers of said town and
 12 the justice of the peace of said county, shall subscribe
 13 to the stock of said company, for such sum as the order
 14 shall propose, and the constable shall make return of
 15 the number voting for and against it to the magistrate
 16 of police of said town, or the presiding officer thereof;
 17 and the sheriff in like manner shall make return as
 18 to the vote in his county, to the first court thereafter
 19 to be held for said county, and it shall be the duty of
 20 the sheriff to notify such justice of his county to
 21 attend at the court to which he shall make said return.

SEC. 29. *Be it further enacted*, That if upon the
 2 return of such constable, or of such sheriff, it shall
 3 appear that a majority of votes are in favor of the
 4 subscription, then the corporate authorities of such
 5 town shall make the subscription for such town, and
 6 in like manner, if a majority of the votes of such
 7 county shall be in favor of the subscription, then the
 8 justices of said county shall appoint an agent to make
 9 the subscription in behalf of said county, the sub-
 10 scriptions to be paid for in the bonds of such town,
 11 or in cash as the authorities may elect, and the agent
 12 shall pay the county subscription in like manner, or
 13 on such terms as may be agreed upon by the parties
 14 with whom he may negotiate.

SEC. 30. *Be it further enacted*, That for the purpose
 2 of paying the quotas on said stock as they may be
 3 called for, or the instalments on such subscriptions as
 4 may fall due, the town authorities on their part, and
 5 the justices of the county for themselves, shall have
 7 power to appoint an agent or agents, to negotiate a
 8 loan or loans, for and in the name of such town and

9 for such county, and it shall be the duty of the author-
 10 ities of such town and the justices of such county,
 11 to levy such tax or taxes annually, on the persons,
 13 lands and other property within such town, and within
 14 such county, as may be sufficient to pay their respec-
 15 tive quotas or instalments as they may become due,
 16 or the interest on such loan or loans with the interest
 17 thereon, as said town authorities and justices of such
 18 county shall deem necessary, and to make all such
 19 order or orders for the due collection and payment of
 20 the same; and the stock thus subscribed, either by the
 21 the town or by the county, shall stand pledged for the
 22 payment of the loan thus authorised to be contracted
 23 on their parts respectively.

SEC. 31. *Be it further enacted*, That whenever it
 2 shall appear to the Board of Internal Improvements
 3 of this State by a certificate, under the seal of said
 4 Company, signed by their Treasurer, and counter-
 5 signed by their President, that one-third has been
 6 subscribed for and taken, and that at least one-fifth
 7 of said stock has been actually paid into the hands
 8 of the Treasurer of said Company, or secured to be
 9 paid in, the said Board of Internal Improvement
 10 shall be, and they are hereby authorized and re-
 11 quired to subscribe in behalf of the State for stock in
 12 said Company, to the amount of one million of dol-
 13 lars, to the capital stock of said Company, and the
 14 subscriptions shall be paid in the following manner,
 15 to wit: The one-fifth part as soon as the said Compa-
 16 ny shall commence work, and one-fifth thereof every
 17 six months thereafter, until the whole subscription in
 18 behalf of the State shall be paid: *Provided*, the
 19 Treasurer and President of said Company shall, be-
 20 fore they receive the aforesaid enstalments, satisfac-
 21 torily assure the Board of Internal Improvements,
 22 by the certificate, under the seal of said Company,

23 that an amount of the private subscriptions has been
 24 paid in equal proportion to the stock subscribed by
 25 the State.

SEC. 32. *Be it further enacted*, That if in case the
 2 present Legislature shall not provide the necessary
 3 and ample means to pay the aforesaid instalments on
 4 the stock subscribed for on behalf of the State, as
 5 provided for in the 31st section of this act, and in that
 6 event the Board of Internal Improvement aforesaid,
 7 shall, and they are hereby authorised and empowered
 8 to borrow on the credit of the State, not exceeding
 9 one million of dollars, as the same may be needed by
 10 the requirements of this act.

SEC. 33. *Be it further enacted*, That if in case it
 2 shall become necessary to borrow the money by this
 3 act authorised, the Public Treasurer shall issue the
 4 necessary certificates, signed by himself, and counter-
 5 signed by the Comptroller, in sums not less than five
 6 hundred dollars each, pledging the State for the pay-
 7 ment of the sum therein mentioned, with interest
 8 thereon, at the rate of interest, not exceeding six per
 9 cent. per annum, payable semi-annually, at such time
 10 and place as the Treasurer may appoint; the princi-
 11 pal of which certificates shall be redeemable at the
 12 end of thirty years from the time the same are issued.

SEC. 34. *Be it further enacted*, That the Comp-
 2 troller shall register the said certificates at large, in a
 3 book to be by him kept for that purpose; at the time
 4 he countersigns the same, and when he delivers the
 5 same to the public treasurer, he shall charge him in
 6 his books with the amount thereof, and also with all
 7 such sums, if any, as the public treasurer may obtain
 8 by way of premium on the sale of said certificates,
 9 an account of which the public treasurer shall render
 10 to the Comptroller so soon as negotiations, from time
 11 to time, for the sale of said certificates, are closed.

SEC. 35. *Be it further enacted*, That if it shall be-
 2 come necessary to issue the certificates aforesaid, the
 3 public treasurer shall advertise as he is authorised and
 4 directed by the 40th section of act entitled "an act
 5 to incorporate the North Carolina Railroad Com-
 6 pany," passed at the session of 1848-'49, for such
 7 amount of the aforesaid sum of one million of dollars
 8 as may be wanted at any one time.

SEC. 36. *Be it further enacted*, That as security for
 2 the redemption of said certificates of debt, the public
 3 faith of the State of North Carolina, is hereby pledged
 4 to the holders thereof, and in addition thereto, all
 5 the stock held by the State in the "Central Railroad
 6 Company" hereby created, shall be, and the same is
 7 hereby pledged for that purpose, and any dividends
 8 of profit which may from time to time be declared
 9 on the stock held by the State as aforesaid, shall be
 10 applied to the payment of the interest accruing on
 11 said certificates; but until such dividends of profit
 12 may be declared, it shall be the duty of the public
 13 Treasurer, and he is hereby authorized and directed
 14 to pay all such interest as the same may accrue out
 15 of any monies in the Treasury, not otherwise appro-
 16 priated.

SEC. 37. *Be it further enacted*, That the said certi-
 2 ficates of debt hereby authorized to be paid, shall be
 3 transferable in the manner as the certificates of
 4 "The North Carolina Railroad Company," certifi-
 5 cates of the like description are made transferable
 6 by the 41st section of an Act entitled, "An Act to
 7 incorporate the North Carolina Railroad Company,"
 8 passed in the year 1848-'49.

SEC. 38. *Be it further enacted*, That this Act shall
 2 be in force, from and after its ratification, and shall
 3 be considered as a public Act.

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